

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

RECONSIDERATION OF PRIOR DECISION
ON:

Penal Code Sections 290 and 290.4, as amended
by Statutes 1996, Chapters 908 and 909;
Statutes 1997, Chapters 17, 80, 817, 818, 819, 820,
821 and 822; and, Statutes 1998, Chapters 485,
550, 927, 928, 929 and 930; and,

Directed by Statutes 2004, Chapter 316,
Section 3, Subdivision (a) (Assem. Bill No. 2851);

Effective August 25, 2004.

Case No.: 04-RL-9715-06

*Sex Offenders: Disclosure by Law Enforcement
Officers*

**NOTICE OF RECONSIDERATION,
COMMENT PERIOD AND HEARING
SCHEDULE**

HEARING DATE: September 29, 2005

TO: League of California Cities
California State Association of Counties
Department of Justice
Department of Finance
State Controller's Office
Legislative Analyst
Interested Parties
Legislative Committees

Statutes 2004, chapter 316, section 3, subdivision (a) (Assem. Bill No. 2851, effective August 25, 2004), requires the Commission on State Mandates to reconsider its decision in the *Sex Offenders: Disclosure by Law Enforcement Officers* (97-TC-15) test claim by January 1, 2006.

Administrative Record

The administrative record for reconsideration will consist of the original test claim and related filings and exhibits, staff analyses, decisions, parameters and guidelines, State Controller's Claiming Instructions, statewide cost estimate, and minutes and transcripts of the Commission on State Mandates. The administrative record will be supplemented with the relevant pages of the Legislative Analyst's 2003 report entitled: *New Mandates: Analysis of Measures Requiring Reimbursement*; Statutes 2004, chapter 316; and all correspondence, public comments, and briefs filed pursuant to this notice of reconsideration.

The Commission will post this notice and the administrative record on its website (www.csm.ca.gov/recon.html) on April 15, 2005. When the website is updated, e-mail notices will be sent to those persons who have signed up for the electronic mailing list.

Commission members shall receive copies of the administrative record of the original test claim proceedings (including parameters and guidelines and statewide cost estimate), and all documents on reconsideration, including the draft staff analysis; comments and briefs filed by interested parties, interested persons, and affected state agencies; and the final staff analysis and exhibits.

Mailing List

Commission staff has created a consolidated e-mail list for this reconsideration. This notice is being e-mailed to the original test claim mailing list and to interested parties, affected state agencies, and interested persons who have been identified by the Commission on State Mandates. On the reconsideration, there is no lead claimant and the Legislature is the requestor.

Request for Initial Comments/Briefing: Opening comments/briefs due May 16, 2005

Rebuttals due June 16, 2005

Statutes 2004, chapter 316, section 3, subdivision (a) (Assem. Bill No. 2851), directs the Commission to reconsider the prior final decision in *Sex Offenders: Disclosure by Law Enforcement Officers*, as follows:

Notwithstanding any other provision of law, by January 1, 2006, the Commission on State Mandates shall reconsider whether each of the following statutes constitutes a reimbursable mandate under Section 6 of Article XIII B of the California Constitution in light of federal statutes enacted and federal and state court decisions rendered since these statutes were enacted:

...(a) Sex Offenders: disclosure by law enforcement officers (97-TC-15); and Chapters 908 and 909 of the Statutes of 1996, Chapters 17, 80, 817, 818, 819, 820, 821, and 822 of the Statutes of 1997, and Chapters 485, 550, 927, 9298, 929, and 930 of the Statutes of 1998).

Commission staff requests that the parties file simultaneous opening briefs and rebuttal comments on each of the following issues:

- In light of federal statutes enacted and federal and state court decisions rendered since the named statutes were enacted, is there a new program or higher level of service imposed on local agencies within the meaning of section 6, article XIII B of the California Constitution, and if so, are there costs mandated by the state pursuant to Government Code section 17514 and Government Code section 17556¹?

¹ Government Code section 17556, subdivisions (c) and (e) were amended by Statutes 2004, chapter 895 (Assem. Bill No. 2855).

- Have funds been appropriated for this program (e.g., state budget)² or are there any other sources of funding available? If so, what is the source?
- What is the period of reimbursement for the Commission's decision on reconsideration?

Any interested party, affected state agency, or interested person may comment, submit briefs, or correspond with the Commission on this request for initial briefing and rebuttal comments. An original and one copy, or an original and an Adobe Acrobat PDF file, shall be submitted to the Commission. PDF files should be e-mailed to: csminfo@csm.ca.gov. The comments will be posted on the Commission's website. This will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.2.³

All filings must comply with the following requirements:

- Assertions or representations must be supported by documentary evidence and must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief.
- If the comments or briefs cite to federal or state laws, regulations, executive orders, or court decisions, copies of those documents must be included in the filing. Court decisions that involve the Board of Control or the Commission on State Mandates are exempt from this requirement.

Draft Staff Analysis and Comments

On or about August 4, 2005, the draft staff analysis and any supporting documentation will be posted to the Commission's website. All parties and interested parties will be notified of the website posting.

Interested parties, affected state agencies, and interested persons are invited to file comments with the Commission on the draft staff analysis by August 25, 2005.

An original and one copy, or an original and an Adobe Acrobat PDF file, shall be submitted to the Commission. PDF files should be e-mailed to: csminfo@csm.ca.gov. The comments will be posted on the Commission's website. This will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.2.

Comments on the draft staff analysis must comply with the following requirements:

- Assertions or representations must be supported by documentary evidence and must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief.

² See Government Code section 17556, subdivision (e), as amended by Statutes 2004, chapter 895 (Assem. Bill No. 2855).

³ The Commission's regulations are at California Code of Regulations, title 2, section 1181 et seq.

- If the comments cite to federal or state laws, regulations, executive orders, or court decisions, copies of those documents must be included in the filing. Court decisions that involve the Board of Control or the Commission on State Mandates are exempt from this requirement.

Commission Hearing

The Commission will hear and determine this reconsideration and may adopt the proposed revised statement of decision on **September 29, 2005**. A final staff analysis and proposed revised statement of decision on the reconsideration will be issued and posted to the Commission's website on or about **September 16, 2005**. If a decision is not adopted, the proposed revised statement of decision will be set for adoption at the **December 8, 2005** hearing.

With the exception of section 1188.4 of the Commission's regulations, the hearing procedures in article 7 of the Commission's regulations in effect at the time of the hearing will apply. Since this reconsideration was not requested pursuant to Government Code section 17559, the hearing procedures set forth in section 1188.4 do not apply in this case.

Representatives of interested parties and affected state agencies and the Legislature will be asked to notify the Commission staff if they wish to testify. Time limits may be imposed if necessary.

Parameters and Guidelines

The Commission, if necessary, shall revise its parameters and guidelines to be consistent with this reconsideration. A prehearing conference may be scheduled if requested by any party. See sections 1183.04 and 1187.4 of the Commission's regulations.

If you have any questions regarding this matter, please contact Assistant Executive Director, Nancy Patton, at (916) 323-8217.

Dated: April 15, 2005

PAULA HIGASHI, Executive Director